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10/544,179

08/02/2005

Francesco Riondato

BA-22950

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EXAMINER

MCPARTLIN, SARAH BURNHAM

ART UNIT

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3636

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/544,179

Applicant(s)

RIONDATO, FRANCESCO

Examiner

Sarah B. McPartlin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 August 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Specification***

1. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

#### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

2. The disclosure is objected to because of the following informalities: The specification refers to a specific claim on line 2 of page one of the original specification. Reference to a specific claim is not permitted because the scope and contents of the

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claims will be subject to amendments throughout prosecution of the case. Appropriate correction is required.

### ***Claim Objections***

3. Claims 1-7 are objected to because of the following informalities:

- It appears as if the word “donward” (claim 1, line 7) should be replaced with the word - - downward - -.
- Claim 1 recites “a depression which varies from 3 to 5 cm.” How does the depression vary? In width? In depth? Clarification is required.
- It appears as if the word “constitutes” (claim 6, line 5) should be replaced with the word - - constitute - -.
- The following words/phrases lack sufficient antecedent basis:
  - the curvature (claim 1, line 8)
  - the buttocks muscles (claim 1, line 9)
  - the front (claim 1, line 10; claim 1, line 11)
  - the inclined shape (claim 1, lines 13-14)
  - the sweat (claim 3, line 4)
  - the buttocks (claim 3, line 4)

Claims 4-7 are objected to as being dependent upon an objected base claim.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-2 and 4-7 are rejected as best understood with the above cited indefiniteness under 35 U.S.C. 102(b) as being anticipated by Yates et al. (5,011,222). With respect to claim 1, Yates discloses a bicycle saddle (1) of the type which has two identical portions (unlabeled) longitudinally symmetrical around axis (A), wherein each of said portions has the following component parts: a rear part (6) which has a first rear zone (8) with slight upwards convexity of about 10-20, said rear zone (8) having an outer side part (unlabeled), represented by the side margin extending nearly completely around the rear parts (6) with downward convexity of about 45-60 degrees so as to follow the curvature of the buttocks muscles and which continues at the front with a front zone (unlabelled) which has an inclined configuration and is located along elevation line 2.8 inches, said rear part (6) continues towards the front portions (2) with a depression which varies from 3 to 5 cm. It should be noted that front portions (2) lie at an elevation of approximately 1.4 inches. Front zone (unlabelled) of rear parts (6) has an elevation of 2.8 inches. Therefore the height difference or depression between the front portions (4) and the front zone of rear parts (6) is approximately 3.56 centimeters (assuming 2.54 centimeters per inch. A part (7) of a transversal of a middle plane which follows the inclined shapes of the font zones has a side cove-shaped zone (10); front part (4)

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which is lower with respect to rear parts (6) by about 1-3 centimeters as seen in Figure 3 as well as slightly inclined upwards up to 25 degrees with it being foreseen that both front parts (4) start to gradually constrict substantially taking up a V-shaped configuration with the vertex (3) curving steeply downwardly, with it also being foreseen that the two portions of the saddle (1) are separated at their intermediate parts and front parts by a channel (16) much wider at its rear part (given that the "rear part" can include the widest central portion, therefore creating a rear part that is much wider than a front part), with it also being foreseen that the two front zones of the two rear parts of the saddle are joined together by a narrow trough shaped portion (14) and that they are shaped so that the rear edge (15) of the saddle (1) has a slight cover, actually at the longitudinal axis of symmetry of the saddle itself.

With respect to claim 2, the front parts (4) are equipped with a bearing (unlabeled) that forms the nose/vertex (3). The bearing is has a bigger thickness that is greater than the rear part (6) as is best depicted in Figure 3.

With respect to claim 4, each of the two front parts (4) of the two portions are lower with respect to the corresponding rear parts (6) by about 1-3 centimeters and inclined upwards up to about 25 degrees the overall width of the two font parts (4) varying from 6 to 15 centimeters given the scales presented in Figure 1 and 3.

With respect to claim 5, the channel (14) has a width, which varies from 3 to 5 centimeters.

With respect to claim 6, there is a bearing (unlabeled) on the front parts (4) of the two portions which has a thickness of about 3 cm, made from soft plastic material, said

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bearings, at an inner zone, constitutes an edge of channel (14) having a bevel of about 30 degrees as the edges slope off down the side.

With respect to claim 7, a seat pillar (44) which supports the aforementioned saddle (1) is arranged so that its vertical axis (unlabeled) roughly coincides with the middle plane in the longitudinal direction of the parts (6) of the two portions of the saddle.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 3 is rejected as best understood with the above cited indefiniteness under 35 U.S.C. 103(a) as being unpatentable over Yates et al. (5,011,222) in view of Calvert et al. (5,356,205). As disclosed above, Yates et al. reveals all claimed elements with the exception of a frame with some holes for ventilation.

Calvert teaches the use of a frame (12) with some ventilation holes (31).

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to use a frame with holes, as taught by Calvert, to support the cycle saddle disclosed by Yates. Such a modification would provide a solid rigid surface to which mounting bars (unlabeled) could be mounted. Furthermore, using a frame with holes reduces the overall weight of the device.

***Response to Amendment/Arguments***

8. The amendment filed on June 27, 2007 has been considered in its entirety.

Applicant argues that Yates does not disclose an opening or channel as shown and claimed in the present application. The claim requires that the two portions of the saddle be separated, at their intermediate parts and front parts, by a channel much wider at its rear part. The channel disclosed by Yate's et al. separates the two symmetrical saddle halves at the intermediate and front parts of the saddle. The channel varies in width. The term "rear part" is broad and can therefore be interpreted as pertaining to the entire portion of the channel (16) rearward of the channel tip. Therefore, the rear part of the channel is much wider than the front tip. The channel (16) is referred to by Yates as being a "perineum/genital groove" and is therefore intended to provide some relief to the crushing of genitalia resulting from sitting on the bicycle seat. Applicant argues that the groove disclosed by Yates is only a slight depression, and therefore still allows for discomfort and physiological problems and is not for accommodation of human genitalia. In response to applicant's argument that the depression disclosed by Yates does not solve the problems solved by the instant invention, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.



***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection (i.e. new interpretation of the Yate's reference) presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah B. McPartlin whose telephone number is 571-272-6854. The examiner can normally be reached on M-Th 7:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sarah B. McPartlin/  
Patent Examiner  
Art Unit 3636

SBM  
September 13, 2007